

REMARKS/ARGUMENTS

In this Amendment After Final Under 37 C.F.R. § 1.116 (“Amendment After Final”), Applicants propose to amend claim 16 in order to place the claims in better form for consideration on appeal and improve clarity. No new matter is introduced.

No amendments are made in response to the Examiner’s rejection.

Prior to entry of the Amendment After Final, claims 1-22 were pending in the application. After entry of the Amendment After Final, claims 1-22 remain pending in the application.

In the Final Office Action, the Examiner rejected claims 14-16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,742,347 to Kandlur et al. (“Kandlur”). Applicants respectfully traverse the Examiner’s rejection.

The Examiner also allowed claims 1-13 and 17-22. Applicants gratefully acknowledge the Examiner’s allowance of claims 1-13 and 17-22.

Allowed Claims

In allowing claims 1-13 and 17-22, the Examiner provided a “statement of reasons for the indication of allowable subject matter”, indicating that the “independent claims identify [a] uniquely distinct feature ‘. . . determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit

rates of next subgroups of pictures using the determined bit rate”. Office Action, pp. 3-4 (emphasis omitted).

Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter to mean that the independent claims are allowed at least because the cited art fails to anticipate or render obvious the following recitations: “determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit rates of next subgroups of pictures using the determined bit rate” (claim 1); “determining size information from the intra-coded picture of a first subgroup of pictures in the group of pictures” and “determining a bit rate from the size information, and setting bit rates required for encoding the predictive-coded pictures of next subgroups of pictures contained in the group of pictures into intra-coded pictures, using the determined bit rate” (claim 8); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate for next subgroups of pictures” (claim 12); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate for next subgroups of pictures” (claim 13); “determines at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received, sets the

at least one bit rate for next subgroups of pictures” (claim 17); and
“determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received” and “setting the at least one bit rate for next subgroups of pictures” (claim 18).

Similarly, Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter also to mean that dependent claims 21 and 22 are allowed at least because the cited art fails to anticipate or render obvious the following recitations: “determines the bit rate using the size information from the picture of the first type contained in a first subgroup within the at least one group of pictures received and setting the bit rate for next subgroups of pictures” (claim 21); and “determines the bit rate using the size information from the picture of the first type contained in the first subgroup within the at least one group of pictures received” and “sets the bit rate for the next subgroups of pictures” (claim 22).

Drawings

In the Amendment Under 37 C.F.R. § 1.111 filed on February 19, 2008 (“First Amendment”), Applicants noted that the Form PTOL-326 in the Office Action mailed on November 16, 2007, did not indicate the status of the drawings filed on April 23, 2004.

In this Amendment After Final, Applicants note that the Form PTOL-326 in the Final Office Action mailed on May 28, 2008 (“Final Office Action”) also

does not indicate the status of the drawings filed on April 23, 2004. Thus, that status remains unresolved.

As a result, Applicants reiterate their request that the Examiner indicate the status of the drawings in the next paper mailed by the U.S. Patent and Trademark Office ("USPTO").

Claim Rejection Under 35 U.S.C. § 102(b)

Applicants submit that the Final Office Action fails to establish a proper prima facie case of anticipation under 35 U.S.C. § 102(b)—at least because it does not show that Kandlur discloses, either expressly or inherently, every element of claim 14, 15, or 16, as required by MPEP 2131.

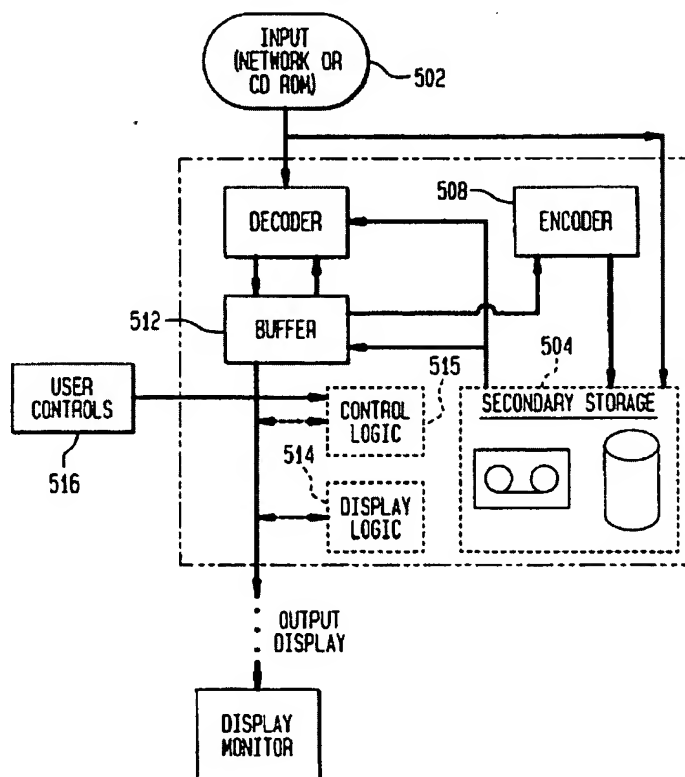
For example, Applicants submit that:

- (1) Kandlur does not disclose encoder 508 as having a "feed back rate controller", as alleged on page 2 of the Final Office Action;
- (2) the size of a buffer is not the same as the fullness of that buffer, as implicitly alleged on page 2 of the Final Office Action;
- (3) Kandlur does not disclose a scale factor, as alleged on page 2 of the Final Office Action; and
- (4) Kandlur does not disclose using the fullness of such a buffer to set such a scale factor, as alleged on page 2 of the Final Office Action.

The Final Office Action attempts to support the rejection of claims 14-16 under 35 U.S.C. § 102(b) by citing encoder 508 in FIG. 5 of Kandlur and column 5/lines 13-23 of Kandlur. However, Applicants submit that neither encoder 508 in FIG. 5 of Kandlur, column 5/lines 13-23 of Kandlur, nor the combination of encoder 508 in FIG. 5 and column 5/lines 13-23 of Kandlur overcomes points (1) – (4) listed above.

First, Applicants note that FIG. 5 of Kandlur (reproduced below) shows encoder 508 as a simple box with input from buffer 512 and output to secondary storage 504.

FIG. 5



Thus, FIG. 5 of Kandlur does not disclose a feed back rate controller, buffer size/fullness, a scale factor, or using size/fullness of a buffer to set a scale factor. At least partially as a result, Applicants submit that encoder 508 in FIG. 5 of Kandlur does not overcome points (1) – (4) listed above.

Second, Applicants note that column 5/lines 13-23 of Kandlur (reproduced below) does not discuss a feed back rate controller, buffer size/fullness, a scale factor, or using size/fullness of a buffer to set a scale factor.

In order to facilitate backward playout, the present invention performs a transformation of the standard MPEG encoded stream into a local compressed form. Specifically, after a P frame is retrieved, decompressed and played out, it is encoded an I frame by the encoder 508 and stored it back to the secondary storage 504. Since this P-I conversion is performed after a P frame is decompressed and played out, there is no extra cost required for decoding. More importantly, since there is no motion estimation and compensation required for compressing a single frame into an I frame, this I frame encoding can be done very efficiently.

Kandlur, c. 5/ll. 13-23. At least partially as a result, Applicants submit that column 5/lines 13-23 of Kandlur does not overcome points (1) – (4) listed above.

Third, Applicants submit that—for reasons similar to those discussed above—not even the combination of encoder 508 in FIG. 5 of Kandlur and column 5/lines 13-23 of Kandlur overcomes points (1) – (4) listed above.

For at least these reasons, Applicants submit that the Final Office Action fails to establish a proper prima facie case of anticipation under 35 U.S.C.

§ 102(b) (as discussed in the First Amendment, for example, video player 102 of Kandlur does not appear to use a first picture type to set a bit rate corresponding to size information of the first picture type, as recited in claims 14 and 15; nor does encoder 508 of Kandlur appear to convert a second picture type into the first picture type using the set bit rate, as also recited in claims 14 and 15). As a result, Applicants submit that independent claims 14 and 15 are patentable under 35 U.S.C. § 102(b) over Kandlur. Applicants further submit that dependent claim 16 is patentable under 35 U.S.C. § 102(b) over Kandlur, at least for the same reasons that claim 15 is patentable, from which claim 16 directly depends.

Request for Reconsideration and Allowance

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of claims 1-22 in connection with the present application is earnestly solicited.

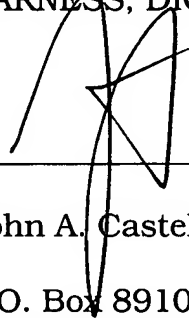
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Director of the USPTO is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; in particular, extension of time fees.

Respectfully submitted,

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By



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